Criminal Application No. 793 of 2006

Hon. Prafulla C. Pant, J.

Heard Shri Pankaj Miglani, learned counsel for the petitioner.

By means of this petition, moved under Section 482 of Code of Criminal procedure 1973, the petitioner has sought quashing of the proceedings in criminal complaint case No. 06 of 2005, Sulekh Chand Vs. R.P. Singh, relating to offence punishable under Section 138 of Negotiable Instruments Act, 1881.

Learned counsel for the petitioner, argued that once the notice was given by the complainant to the petitioner under the aforesaid Act before filing the complaint, he has no right to file a complaint on the basis of fresh notice. Had the notice been served on the petitioner, probably the argument could have been accepted since the complainant did not treat the service sufficient on getting back the first notice, issued to the petitioner, which he could have treated, either way. Merely for the reason that second notice is issued to the petitioner, the impugned criminal complaint case, cannot be quashed in exercise of powers under Section 482 of Cr.P.C..

In the circumstances, the petition is dismissed in limine with the observation that the petitioner is at liberty to raise all pleas relating, to his innocence including the plea raised, as to the validity of the notice, before the trial court. (All pending applications in this case also stand disposed of).

(Prafulla C. Pant, J.)

Dt. 12.10.2006
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